

SECOND REGULAR SESSION

# HOUSE BILL NO. 2822

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALSH MOORE (93).

5560H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof ten new sections relating to leave from employment, with a referendum clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 143.121, RSMo, is repealed and ten new sections enacted in lieu thereof, to be known as sections 143.121, 285.400, 285.405, 285.410, 285.415, 285.420, 285.425, 285.430, 285.435, and 285.440, to read as follows:

143.121. 1. The Missouri adjusted gross income of a resident individual shall be the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the taxpayer's federal adjusted gross income:

(1) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit. The amount added pursuant to this subdivision shall not include any amount of a federal income tax refund attributable to a tax credit reducing a taxpayer's federal tax liability pursuant to Public Law 116-136 or 116-260, enacted by the 116th United States Congress, for the tax year beginning on or after January 1, 2020, and ending on or before December 31, 2020, and deducted from Missouri adjusted gross income pursuant to section 143.171. The amount added under this subdivision shall also not include any amount of a federal income tax refund attributable to a tax credit reducing a taxpayer's federal tax liability under any other federal law that provides direct economic impact payments to taxpayers to mitigate financial challenges related to the COVID-19 pandemic, and deducted from Missouri adjusted gross income under section 143.171;

(2) Interest on certain governmental obligations excluded from federal gross income by 26 U.S.C. Section 103 of the Internal Revenue Code, as amended. The previous sentence

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 shall not apply to interest on obligations of the state of Missouri or any of its political  
18 subdivisions or authorities and shall not apply to the interest described in subdivision (1) of  
19 subsection 3 of this section. The amount added pursuant to this subdivision shall be reduced  
20 by the amounts applicable to such interest that would have been deductible in computing the  
21 taxable income of the taxpayer except only for the application of 26 U.S.C. Section 265 of the  
22 Internal Revenue Code, as amended. The reduction shall only be made if it is at least five  
23 hundred dollars;

24 (3) The amount of any deduction that is included in the computation of federal  
25 taxable income pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as amended  
26 by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted  
27 relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the  
28 extent the amount deducted exceeds the amount that would have been deductible pursuant to  
29 26 U.S.C. Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002;

30 (4) The amount of any deduction that is included in the computation of federal  
31 taxable income for net operating loss allowed by 26 U.S.C. Section 172 of the Internal  
32 Revenue Code of 1986, as amended, other than the deduction allowed by 26 U.S.C. Section  
33 ~~[172(b)(1)(G)]~~ **172(b)(1)(F)** and 26 U.S.C. Section ~~[172(i)]~~ **172(h)** of the Internal Revenue  
34 Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in  
35 which the net operating loss occurred or carries forward for a period of more than twenty  
36 years and carries backward for more than two years. Any amount of net operating loss taken  
37 against federal taxable income but disallowed for Missouri income tax purposes pursuant to  
38 this subdivision after June 18, 2002, may be carried forward and taken against any income on  
39 the Missouri income tax return for a period of not more than twenty years from the year of the  
40 initial loss; and

41 (5) For nonresident individuals in all taxable years ending on or after December 31,  
42 2006, the amount of any property taxes paid to another state or a political subdivision of  
43 another state for which a deduction was allowed on such nonresident's federal return in the  
44 taxable year unless such state, political subdivision of a state, or the District of Columbia  
45 allows a subtraction from income for property taxes paid to this state for purposes of  
46 calculating income for the income tax for such state, political subdivision of a state, or the  
47 District of Columbia;

48 (6) For all tax years beginning on or after January 1, 2018, any interest expense paid  
49 or accrued in a previous taxable year, but allowed as a deduction under 26 U.S.C. Section  
50 163, as amended, in the current taxable year by reason of the carryforward of disallowed  
51 business interest provisions of 26 U.S.C. Section 163(j), as amended. For the purposes of this  
52 subdivision, an interest expense is considered paid or accrued only in the first taxable year the

53 deduction would have been allowable under 26 U.S.C. Section 163, as amended, if the  
54 limitation under 26 U.S.C. Section 163(j), as amended, did not exist.

55 3. There shall be subtracted from the taxpayer's federal adjusted gross income the  
56 following amounts to the extent included in federal adjusted gross income:

57 (1) Interest received on deposits held at a federal reserve bank or interest or dividends  
58 on obligations of the United States and its territories and possessions or of any authority,  
59 commission or instrumentality of the United States to the extent exempt from Missouri  
60 income taxes pursuant to the laws of the United States. The amount subtracted pursuant to  
61 this subdivision shall be reduced by any interest on indebtedness incurred to carry the  
62 described obligations or securities and by any expenses incurred in the production of interest  
63 or dividend income described in this subdivision. The reduction in the previous sentence  
64 shall only apply to the extent that such expenses including amortizable bond premiums are  
65 deducted in determining the taxpayer's federal adjusted gross income or included in the  
66 taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses  
67 total at least five hundred dollars;

68 (2) The portion of any gain, from the sale or other disposition of property having a  
69 higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal  
70 income tax purposes on December 31, 1972, that does not exceed such difference in basis. If  
71 a gain is considered a long-term capital gain for federal income tax purposes, the modification  
72 shall be limited to one-half of such portion of the gain;

73 (3) The amount necessary to prevent the taxation pursuant to this chapter of any  
74 annuity or other amount of income or gain which was properly included in income or gain and  
75 was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the  
76 taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive  
77 the income or gain, or to a trust or estate from which the taxpayer received the income or  
78 gain;

79 (4) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the  
80 extent that the same are included in federal adjusted gross income;

81 (5) The amount of any state income tax refund for a prior year which was included in  
82 the federal adjusted gross income;

83 (6) The portion of capital gain specified in section 135.357 that would otherwise be  
84 included in federal adjusted gross income;

85 (7) The amount that would have been deducted in the computation of federal taxable  
86 income pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as in effect on  
87 January 1, 2002, to the extent that amount relates to property purchased on or after July 1,  
88 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually

89 deducted pursuant to 26 U.S.C. Section 168 of the Internal Revenue Code as amended by the  
90 Job Creation and Worker Assistance Act of 2002;

91 (8) For all tax years beginning on or after January 1, 2005, the amount of any income  
92 received for military service while the taxpayer serves in a combat zone which is included in  
93 federal adjusted gross income and not otherwise excluded therefrom. As used in this section,  
94 "combat zone" means any area which the President of the United States by Executive Order  
95 designates as an area in which Armed Forces of the United States are or have engaged in  
96 combat. Service is performed in a combat zone only if performed on or after the date  
97 designated by the President by Executive Order as the date of the commencing of combat  
98 activities in such zone, and on or before the date designated by the President by Executive  
99 Order as the date of the termination of combatant activities in such zone;

100 (9) For all tax years ending on or after July 1, 2002, with respect to qualified property  
101 that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an  
102 additional modification was made under subdivision (3) of subsection 2 of this section, the  
103 amount by which additional modification made under subdivision (3) of subsection 2 of this  
104 section on qualified property has not been recovered through the additional subtractions  
105 provided in subdivision (7) of this subsection;

106 (10) **The amount contributed to the Missouri earned family and medical leave**  
107 **fund established under section 285.435;**

108 (11) For all tax years beginning on or after January 1, 2014, the amount of any  
109 income received as payment from any program which provides compensation to agricultural  
110 producers who have suffered a loss as the result of a disaster or emergency, including the:

- 111 (a) Livestock Forage Disaster Program;
- 112 (b) Livestock Indemnity Program;
- 113 (c) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish;
- 114 (d) Emergency Conservation Program;
- 115 (e) Noninsured Crop Disaster Assistance Program;
- 116 (f) Pasture, Rangeland, Forage Pilot Insurance Program;
- 117 (g) Annual Forage Pilot Program;
- 118 (h) Livestock Risk Protection Insurance Plan;
- 119 (i) Livestock Gross Margin Insurance Plan;

120 [(H)] (12) For all tax years beginning on or after January 1, 2018, any interest  
121 expense paid or accrued in the current taxable year, but not deducted as a result of the  
122 limitation imposed under 26 U.S.C. Section 163(j), as amended. For the purposes of this  
123 subdivision, an interest expense is considered paid or accrued only in the first taxable year the  
124 deduction would have been allowable under 26 U.S.C. Section 163, as amended, if the  
125 limitation under 26 U.S.C. Section 163(j), as amended, did not exist; and

126           ~~[(12)]~~ **(13)** One hundred percent of any retirement benefits received by any taxpayer  
127 as a result of the taxpayer's service in the Armed Forces of the United States, including  
128 reserve components and the National Guard of this state, as defined in 32 U.S.C. Sections 101  
129 (3) and 109, and any other military force organized under the laws of this state.

130           4. There shall be added to or subtracted from the taxpayer's federal adjusted gross  
131 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

132           5. There shall be added to or subtracted from the taxpayer's federal adjusted gross  
133 income the modifications provided in section 143.411.

134           6. In addition to the modifications to a taxpayer's federal adjusted gross income in this  
135 section, to calculate Missouri adjusted gross income there shall be subtracted from the  
136 taxpayer's federal adjusted gross income any gain recognized pursuant to 26 U.S.C. Section  
137 1033 of the Internal Revenue Code of 1986, as amended, arising from compulsory or  
138 involuntary conversion of property as a result of condemnation or the imminence thereof.

139           7. (1) As used in this subsection, "qualified health insurance premium" means the  
140 amount paid during the tax year by such taxpayer for any insurance policy primarily  
141 providing health care coverage for the taxpayer, the taxpayer's spouse, or the taxpayer's  
142 dependents.

143           (2) In addition to the subtractions in subsection 3 of this section, one hundred percent  
144 of the amount of qualified health insurance premiums shall be subtracted from the taxpayer's  
145 federal adjusted gross income to the extent the amount paid for such premiums is included in  
146 federal taxable income. The taxpayer shall provide the department of revenue with proof of  
147 the amount of qualified health insurance premiums paid.

148           8. (1) Beginning January 1, 2014, in addition to the subtractions provided in this  
149 section, one hundred percent of the cost incurred by a taxpayer for a home energy audit  
150 conducted by an entity certified by the department of natural resources under section 640.153  
151 or the implementation of any energy efficiency recommendations made in such an audit shall  
152 be subtracted from the taxpayer's federal adjusted gross income to the extent the amount paid  
153 for any such activity is included in federal taxable income. The taxpayer shall provide the  
154 department of revenue with a summary of any recommendations made in a qualified home  
155 energy audit, the name and certification number of the qualified home energy auditor who  
156 conducted the audit, and proof of the amount paid for any activities under this subsection for  
157 which a deduction is claimed. The taxpayer shall also provide a copy of the summary of any  
158 recommendations made in a qualified home energy audit to the department of natural  
159 resources.

160           (2) At no time shall a deduction claimed under this subsection by an individual  
161 taxpayer or taxpayers filing combined returns exceed one thousand dollars per year for

162 individual taxpayers or cumulatively exceed two thousand dollars per year for taxpayers  
163 filing combined returns.

164 (3) Any deduction claimed under this subsection shall be claimed for the tax year in  
165 which the qualified home energy audit was conducted or in which the implementation of the  
166 energy efficiency recommendations occurred. If implementation of the energy efficiency  
167 recommendations occurred during more than one year, the deduction may be claimed in more  
168 than one year, subject to the limitations provided under subdivision (2) of this subsection.

169 (4) A deduction shall not be claimed for any otherwise eligible activity under this  
170 subsection if such activity qualified for and received any rebate or other incentive through a  
171 state-sponsored energy program or through an electric corporation, gas corporation, electric  
172 cooperative, or municipally owned utility.

173 9. The provisions of subsection 8 of this section shall expire on December 31, 2020.

**285.400. 1. The provisions of sections 285.400 to 285.440 shall be known and  
2 may be cited as the "Missouri Earned Family and Medical Leave Act".**

**3 2. As used in sections 285.400 to 285.440, the following terms shall mean:**

**4 (1) "Average state weekly pay", the total wages earned by all employees who  
5 have contributed to the fund in the past twelve months, divided by the total number of  
6 such employees, the quotient of which is divided by the average number of weeks  
7 worked by all employees who have contributed to the fund in the last twelve months;**

**8 (2) "Average weekly pay", the total wages earned by an employee in the past  
9 twelve months, divided by the number of weeks worked by the employee in such twelve-  
10 month period; or the weekly salary of the employee at the time that family or medical  
11 leave is taken, whichever is greater provided that the average weekly pay shall never  
12 exceed the average state weekly pay;**

**13 (3) "Care", includes, but is not limited to, physical care, emotional support,  
14 visitation, assistance in treatment, transportation, arranging for a change in care,  
15 assistance with essential daily living matters, and personal attendant services;**

**16 (4) "Child", a biological, adopted, or foster son or daughter, a stepson or  
17 stepdaughter, a legal ward, a son or daughter of a domestic or civil union partner, or the  
18 person to whom the employee stands in loco parentis who is under nineteen years of age  
19 or nineteen years of age or older but incapable of self-care because of mental or physical  
20 impairment;**

**21 (5) "Department", the department of labor and industrial relations;**

**22 (6) "Employee", any person performing service for remuneration unless it is  
23 shown to the satisfaction of the department that such services were performed by an  
24 independent contractor. In determining the existence of the independent contractor  
25 relationship, the common law of agency right to control shall be applied. The common**

26 law of agency right to control test shall include, but not be limited to: if the alleged  
27 employer retains the right to control the manner and means by which the results are to  
28 be accomplished, the person who performs the service is an employee; if only the results  
29 are controlled, the person performing the service is an independent contractor;

30 (7) "Employer", any person acting directly or indirectly in the interest of an  
31 employer in relation to an employee;

32 (8) "Family member", a child, parent, grandparent, grandchild, sibling, spouse,  
33 domestic or civil union partner, or household member, or any ward as that term is  
34 defined in section 475.010;

35 (9) "Family or medical leave", any of the following:

36 (a) Leave to bond with a minor child within the first year after the child's birth  
37 or placement in connection with foster care or adoption;

38 (b) Leave to care for a family member who has a serious health condition;

39 (c) Leave due to an employee's own serious health condition; or

40 (d) Leave to assume any familial responsibility because a spouse, child, or parent  
41 of an employee is on, or has been notified of an impending call to, active duty in the  
42 uniformed services;

43 (10) "Fund", the Missouri earned family and medical leave fund established in  
44 section 285.435;

45 (11) "Grandchild", a child of the employee's child;

46 (12) "Grandparent", a parent of the employee's parent;

47 (13) "Health care provider", any physician, hospital, health maintenance  
48 organization, ambulatory surgical center, long-term care facility including those  
49 licensed under chapter 198, dentist, registered or licensed practical nurse,  
50 optometrist, podiatrist, pharmacist, chiropractor, physical therapist, psychologist,  
51 physician-in-training, and any other person or entity that provides health care  
52 services under the authority of a license or certificate of this state or any other state  
53 or foreign country;

54 (14) "Parent", a biological, foster, or adoptive parent, a parent-in-law, a  
55 stepparent, a legal guardian, or other person who stood in loco parentis to the employee  
56 when the employee was a child;

57 (15) "Parent-in-law", the parent of a spouse or domestic or civil union partner;

58 (16) "Serious health condition", an illness, injury, impairment, or physical or  
59 mental condition that involves inpatient care in a hospital, hospice, or residential health  
60 care facility, or continuing medical treatment or continuing supervision by a health care  
61 provider. The term shall include medical attention, services, or counseling for victims of  
62 stalking, domestic violence, abuse, or sexual assault, as such terms are defined in section

63 **455.010, or victims of trafficking for the purpose of sexual exploitation as described in**  
64 **section 566.209;**

65 **(17) "Sibling", a person related to another person by blood, adoption, or affinity**  
66 **through a common legal or biological parent;**

67 **(18) "Spouse", a partner to a lawful marriage;**

68 **(19) "Uniformed services":**

69 **(a) Active and reserve components of the Army, Navy, Air Force, Marine Corps,**  
70 **Space Force, or Coast Guard of the United States;**

71 **(b) The Merchant Marine, the commissioned corps of the Public Health Service,**  
72 **or the commissioned corps of the National Oceanic and Atmospheric Administration of**  
73 **the United States; or**

74 **(c) The Missouri National Guard.**

**285.405. 1. There is hereby established the "Missouri Earned Family and**  
2 **Medical Leave Program" to provide up to six weeks of wage replacement benefits to**  
3 **employees who take time off work for family or medical leave. The department shall**  
4 **administer and implement the program and the provisions of sections 285.400 to**  
5 **285.440 and shall pay Missouri family or medical leave benefits as specified in such**  
6 **sections.**

7 **2. An employee shall be eligible to receive Missouri earned family or medical**  
8 **leave program benefits equal to one hundred percent of his or her average weekly pay**  
9 **for each full week during which he or she has taken family or medical leave. An**  
10 **employee may take family or medical leave for a partial week and shall be eligible to**  
11 **receive only the fraction of the average weekly pay that is equal to the number of days of**  
12 **leave taken divided by the number of days for which such employee would have**  
13 **otherwise worked in the respective week had the employee not taken family or medical**  
14 **leave. Any leave taken shall be in full-day increments.**

15 **3. No more than six weeks of Missouri earned family and medical leave benefits**  
16 **shall be paid to an employee within any fifty-two-week period.**

17 **4. An employee shall file a claim for Missouri earned family and medical leave**  
18 **benefits with the department not later than the forty-first consecutive day following the**  
19 **first compensable day with respect to which the claim is made for benefits, which time**  
20 **shall be extended by the department upon a showing of good cause. If a first claim is not**  
21 **complete, the claim form shall be returned to the employee for completion, and it shall**  
22 **be completed and returned not later than the tenth consecutive day after the date it was**  
23 **verifiably sent by the department to the employee, except that such time shall be**  
24 **extended by the department upon a showing of good cause.**



25           **5. No employee shall be eligible for Missouri earned family and medical leave**  
26 **program benefits with respect to any day:**

27           **(1) That he or she is eligible to receive unemployment compensation benefits**  
28 **under chapter 288 or under an unemployment compensation act of any other state or of**  
29 **the federal government; or**

30           **(2) That he or she has received, or is entitled to receive, any other benefits under**  
31 **chapter 287.**

32           **6. No employee shall be eligible for Missouri earned family and medical leave**  
33 **benefits until such employee has paid into the Missouri earned family and medical leave**  
34 **fund for fifty-two weeks.**

35           **7. An employee who is entitled to leave under the Missouri earned family and**  
36 **medical leave act and the Family and Medical Leave Act (FMLA) under 29 U.S.C.**  
37 **Section 2601 et seq. shall take family or medical leave under sections 285.400 to 285.440**  
38 **concurrent with leave taken under the FMLA.**

39           **8. The first payment of Missouri earned family and medical leave benefits shall**  
40 **be made to an employee within two weeks after the completed claim is received by the**  
41 **department or the day the family or medical leave began, whichever is later.**  
42 **Subsequent payments shall be made bimonthly.**

**285.410. 1. (1) An employee shall establish eligibility for each uninterrupted**  
2 **family or medical care leave period by filing a first claim for benefits supported by the**  
3 **certificate of a treating health care provider that establishes the serious health condition**  
4 **of the family member that warrants the care of the employee, or that establishes the**  
5 **serious health condition of the employee. For subsequent periods of uninterrupted leave**  
6 **after the period covered by the initial certificate or any preceding continued claim, a**  
7 **claimant shall file a continued claim for those benefits supported by the certificate of a**  
8 **treating health care provider.**

9           **(2) For employees seeking leave in order to assume a familial responsibility due**  
10 **to a spouse, child, or parent being on active duty in the uniformed services, eligibility for**  
11 **leave shall be established by providing, in a manner satisfactory to the department,**  
12 **proof of the family member being on active duty.**

13           **(3) For employees seeking leave due to a serious health condition related to**  
14 **seeking medical attention, services, or counseling for victims of stalking, domestic**  
15 **violence, abuse, or sexual assault, as such terms are defined in section 455.010, or**  
16 **victims of trafficking for purposes of sexual exploitation as described in section 566.209,**  
17 **the certificate required by subdivision (1) of this subsection may be provided by any of**  
18 **the following:**

19           **(a) A health care provider;**

20           **(b) A court that has jurisdiction over a judicial proceeding relating to the serious**  
21 **health condition of the employee or the serious health condition of the family member of**  
22 **the employee; or**

23           **(c) A law enforcement officer with knowledge of the serious health condition of**  
24 **the employee or the serious health condition of the family member of the employee.**

25           **2. The certificates required under subsection 1 of this section shall be developed**  
26 **by the department. In order to establish medical eligibility of the serious health**  
27 **condition of the family member that warrants the care of the employee, or to establish**  
28 **medical eligibility of the serious health condition of the employee, the information on the**  
29 **certificate shall be within the physician's or health care provider's knowledge and shall**  
30 **be based on a physical examination and documented medical history of the family**  
31 **member or employee. The certificate shall contain all of the following:**

32           **(1) A diagnosis and diagnostic code prescribed in the International Classification**  
33 **of Diseases or, if no diagnosis has yet been obtained, a detailed statement of symptoms;**

34           **(2) The date, if known, on which the condition commenced;**

35           **(3) The probable duration of the condition;**

36           **(4) An estimate of the amount of time that the physician or health care provider**  
37 **believes the employee needs to care for the family member or himself or herself; and**

38           **(5) If applicable, a statement that the serious health condition warrants the**  
39 **participation of the employee to provide care for his or her family member.**

40           **3. The department shall develop a certificate form that is separate and distinct**  
41 **from the certificate required in subsection 1 of this section for an employee taking leave**  
42 **to bond with a minor child within the first year of the child's birth or placement in**  
43 **connection with foster care or adoption.**

44           **4. Any claim of an individual who obtains care and treatment outside the state**  
45 **shall be supported by a certificate of a treating health care provider duly licensed or**  
46 **certified by the state or foreign country in which the claimant is receiving care and**  
47 **treatment.**

48           **5. Nothing in this section shall be construed to preclude the department from**  
49 **requesting additional medical evidence to supplement any claim. Any cost incurred for**  
50 **procuring additional medical evidence shall be paid by the employee. The department**  
51 **may require that the additional evidence include any or all of the following:**

52           **(1) Identification of diagnoses;**

53           **(2) Identification of symptoms;**

54           **(3) A statement setting forth the facts of the serious health condition of the**  
55 **employee or such employee's family member, which shall be completed by any of the**  
56 **following individuals:**

57 (a) The health care provider treating the employee or family member of the  
58 employee;

59 (b) The registrar, authorized medical officer, or other duly authorized official of  
60 the hospital or health care facility treating the employee or family member of the  
61 employee; or

62 (c) An examining physician or other representative of the department; and

63 (4) An affidavit from an employee averring that the employee or such  
64 employee's spouse gave birth to a child or has adopted or received a child in connection  
65 with foster care.

285.415. Employees shall provide at least thirty days advance notice to their  
2 employer before family and medical leave is to begin if the need for the leave is  
3 foreseeable. If thirty days' notice is not practicable, notice shall be given to the  
4 employer as soon as practicable.

285.420. 1. Except as provided in subsection 4 of this section, an employee may  
2 file a notice of appeal from any determination of eligibility for benefits made by the  
3 department with the administrative hearing commission pursuant to chapter 621. Such  
4 appeal shall be made by mail or in person within thirty days after the date on which a  
5 copy of the department's decision was received by the employee.

6 2. The administrative hearing commission's proposed decision and order shall  
7 be final and not subject to further appeal unless within thirty days after the decision is  
8 served on the interested parties, a party files a petition for judicial review as provided in  
9 chapter 536.

10 3. A determination of the amount of benefits payable under sections 285.400 to  
11 285.440 shall not serve as a basis for appeal under this section. However, the  
12 determination shall be subject to request by the employee on family or medical leave for  
13 redetermination by the department at any time within one year from the date of  
14 delivery or mailing of such determination, or any redetermination thereof. A  
15 redetermination shall be furnished to the individual in writing.

16 4. A denial of benefits shall become final in the absence of timely appeal  
17 therefrom. The department may redetermine a denial of benefits at any time within one  
18 year from delivery or mailing of such denial to correct an error in identity, omission of  
19 fact, or misapplication of law with respect to the facts.

20 5. A determination of allowance of benefits shall become final in the absence of  
21 timely appeal therefrom. The department may redetermine such allowance at any time  
22 within two years following the application year in which such allowance was made in  
23 order to recover any benefits for which recovery is provided under this section.

24           **6. A redetermination of benefits may be made at any time for any of the**  
25 **following reasons:**

26           **(1) To conform to a final court decision applicable to either an initial**  
27 **determination or a determination of denial or allowance of benefits;**

28           **(2) In the event of a back pay award or settlement affecting the allowance of**  
29 **benefits; or**

30           **(3) In the case of misrepresentation or willful failure to report a material fact.**

31

32 **Written notice of any such redetermination shall be promptly given by mail or delivered**  
33 **to such interested parties as were notified of the initial determination of denial or**  
34 **allowance of benefits and any new interested party or parties who, under such rule as**  
35 **the department may adopt, would be an interested party.**

**285.425. 1. Notwithstanding any provision of law to the contrary, it shall be**  
2 **unlawful for any person to discharge or in any other manner discriminate against an**  
3 **employee because the employee has made a claim for, indicated an intent to make a**  
4 **claim for, or received Missouri earned family and medical leave benefits.**

5           **2. (1) Any person who violates the provisions of subsection 1 of this section shall**  
6 **be liable to any employee of such person who is affected by the violation for such**  
7 **equitable relief as may be appropriate including employment, reinstatement, or**  
8 **promotion and for damages equal to the sum of:**

9           **(a) The amount of:**

10           **a. Any wages, salary, employment benefits, or other compensation denied or lost**  
11 **to such individual by reason of the violation; or**

12           **b. In a case in which wages, salary, employment benefits, or other compensation**  
13 **have not been denied or lost to the individual, any actual monetary losses sustained by**  
14 **the individual as a direct result of the violation, such as the cost of providing care, up to**  
15 **a sum equal to sixty calendar days of wages or salary for the individual;**

16           **(b) The interest on the amount described in paragraph (a) of this subdivision,**  
17 **such interest rate being equal to the market rate as determined by the director of the**  
18 **division of finance under section 408.030; and**

19           **(c) An additional amount as liquidated damages equal to the sum of the amount**  
20 **described in paragraph (a) of this subdivision and the interest described in paragraph**  
21 **(b) of this subdivision, except that if a person who has violated subsection 1 of this**  
22 **section proves to the satisfaction of the court that the act or omission was in good faith**  
23 **and that the person had reasonable grounds for believing that the act or omission was**  
24 **not a violation, such court may reduce the amount of such liquidated damages.**

25           **(2) The court may additionally require reasonable attorney's fees, expert witness**  
26 **fees, and other court costs to be paid by a defendant.**

27           **3. An action to recover the relief prescribed in subsection 2 of this section may be**  
28 **maintained against any person in any court of competent jurisdiction by the employee**  
29 **affected.**

30           **4. The department may bring an action seeking relief on behalf of an employee**  
31 **under this section. The right to bring an action provided under subsection 3 of this**  
32 **section shall terminate upon the filing of a complaint by the department. If any**  
33 **damages are recovered in such action, such damages shall be held in a special deposit**  
34 **account and paid directly to each employee affected.**

35           **5. An action may be brought under this section not later than three years after**  
36 **the date of the alleged violation for which the action is brought. An action brought**  
37 **under this section shall be considered to be commenced on the date when the complaint**  
38 **is filed.**

**285.430. 1. The department shall develop and implement an outreach program**  
2 **to ensure that employees who may be eligible to receive Missouri earned family and**  
3 **medical leave benefits under sections 285.400 to 285.440 are made aware of such**  
4 **benefits. Outreach information shall easily explain eligibility requirements, the claims**  
5 **process, weekly benefit amounts, maximum benefits payable, notice and medical**  
6 **certification requirements, reinstatement and nondiscrimination rights, confidentiality,**  
7 **and the relationship between employment protection, leave from employment, wage**  
8 **replacement benefits, and other laws, collective bargaining agreements, and employer**  
9 **policies.**

10           **2. Not later than three years after the effective date of sections 285.400 to**  
11 **285.440, the state auditor shall submit to the general assembly a report on the Missouri**  
12 **earned family and medical leave benefits paid for any month during the one-year period**  
13 **beginning on January 1, 2025. The report shall include the following:**

14           **(1) An identification of the total number of applications for such benefits filed,**  
15 **and the average number of days between when an application is received and when a**  
16 **determination is made;**

17           **(2) An identification of the total number of requests for review of an initial**  
18 **adverse determination of eligibility for such benefits made, and the average number of**  
19 **days between when such review is requested and when a final determination of**  
20 **eligibility is made; and**

21           **(3) An identification of the total number of monthly benefit claim reports for**  
22 **such benefits filed, the average number of days between the date such report is received,**

23 and the date on which the initial determination of eligibility with respect to the claim  
24 report is made.

285.435. 1. (1) There is hereby created in the state treasury the "Missouri  
2 Earned Family and Medical Leave Fund", which shall consist of moneys collected under  
3 this section. The state treasurer shall be custodian of the fund. In accordance with  
4 sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund  
5 shall be a dedicated fund and moneys in the fund shall be used solely by the department  
6 of labor and industrial relations for the purpose of distributing Missouri earned family  
7 and medical leave program benefits.

8 (2) The state treasurer shall invest moneys in the fund in the same manner as  
9 other funds are invested. Any interest and moneys earned on such investments shall be  
10 credited to the fund.

11 2. (1) In order to provide funding to implement the provisions of sections  
12 285.400 to 285.440, employees shall contribute one quarter of one percent of their  
13 average weekly pay to the Missouri earned family and medical leave fund beginning  
14 January 1, 2023.

15 (2) For purposes of this section, in determining the average weekly pay of an  
16 employee, the total wages of an employee shall not exceed the contribution and benefit  
17 base established by the Commissioner of Social Security Administration under 42  
18 U.S.C. 430.

19 (3) Notwithstanding the provisions of section 285.405 to the contrary, if there are  
20 not sufficient resources in the fund, the department may, at its discretion, reduce the  
21 benefit amount each employee is eligible to receive. If the benefit amount is reduced,  
22 each employee shall receive the same percentage of his or her average weekly wage.

23 (4) No employee shall receive benefits from the fund until January 1, 2025.

24 3. Under section 23.253 of the Missouri sunset act:

25 (1) The provisions of the new program authorized under sections 285.400 to  
26 285.440 shall automatically sunset on December 31, 2028, unless reauthorized by an act  
27 of the general assembly;

28 (2) If such program is reauthorized, the program authorized under sections  
29 285.400 to 285.440 shall automatically sunset six years after the effective date of the  
30 reauthorization of such sections; and

31 (3) Sections 285.400 to 285.440 shall terminate on September first of the  
32 calendar year immediately following the calendar year in which the program authorized  
33 under such sections is sunset.

285.440. Any rule or portion of a rule, as that term is defined in section 536.010,  
2 that is created under the authority delegated in sections 285.400 to 285.435 shall become

3 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**  
4 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**  
5 **of the powers vested with the general assembly pursuant to chapter 536 to review, to**  
6 **delay the effective date, or to disapprove and annul a rule are subsequently held**  
7 **unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
8 **adopted after the effective date of this section shall be invalid and void.**

Section B. This act is hereby submitted to the qualified voters of this state for  
2 approval or rejection at an election which is hereby ordered and which shall be held and  
3 conducted on Tuesday next following the first Monday in November, 2022, pursuant to the  
4 laws and constitutional provisions of this state for the submission of referendum measures by  
5 the general assembly, and this act shall become effective when approved by a majority of the  
6 votes cast thereon at such election and not otherwise.

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